

# CRAVATH, SWAINE & MOORE

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16348-C

RECORDATION NO. FILED 1425

MAR 13 1991 -12 30 PM

INTERSTATE COMMERCE COMMISSION

March 13, 1991

First Supplemental Agreement Dated as of February 15, 1991  
Amending Conditional Sale Agreement  
Filed Under Recordation No. 16348

Dear Mr. Strickland:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of St. Louis Southwestern Railway Company for filing and recordation counterparts of the following document:

First Supplemental Agreement dated as of February 15, 1991, by and between St. Louis Southwestern Railway Company, as Company, and The Bank of New York (formerly Irving Trust Company), as Assignee.

The First Supplemental Agreement amends a Conditional Sale Agreement dated as of April 15, 1989, previously filed and recorded with the Interstate Commerce Commission on May 23, 1989, at 2:05 p.m., Recordation No. 16348.

The First Supplemental Agreement amends the Conditional Sale Agreement to include two units of Replacement Equipment.

*Counterparts - C.R.*

Please file and record the First Supplemental Agreement submitted with this letter and assign it Recordation Number 16348-C.

Enclosed is a check for \$15 payable to the Interstate Commerce Commission for the recordation fee for the First Supplemental Agreement.

Please stamp all counterparts of the enclosed document with your official recording stamp. You will wish to retain one copy of the instrument and this transmittal letter for your files. It is requested that the remaining counterparts of the document be delivered to the bearer of this letter.

Very truly yours,

*Laurance V. Goodrich*

Laurance V. Goodrich  
as Agent for  
St. Louis Southwestern  
Railway Company

Mr. Sidney L. Strickland, Secretary,  
Interstate Commerce Commission,  
Washington, D.C. 20423

Encls.



REGISTRATION NO. 16348-C FILED 1425

MAR 13 1991 -12:30 PM

FIRST

INTERSTATE COMMERCE COMMISSION

SUPPLEMENTAL AGREEMENT

THIS FIRST SUPPLEMENTAL AGREEMENT, dated as of February 15, 1991, by and between St. Louis Southwestern Railway Company, a corporation organized and existing under and by virtue of the laws of the State of Missouri (hereinafter called the "Company"), and The Bank of New York (formerly Irving Trust Company), a banking corporation organized and existing under and by virtue of the laws of the State of New York (said Bank hereinafter called the "Assignee"), with a principal office and place of business at One Wall Street, New York, New York 10015, as Agent acting under an Agreement dated as of the fifteenth day of April, 1989.

WITNESSETH

WHEREAS, General Electric Company, a corporation organized and existing under and by virtue of the laws of the State of New York (hereinafter called "Builder"), General Motors Corporation (Electro-Motive Division), and St. Louis Southwestern Railway Company have entered into a Conditional Sale Agreement dated as of April 15, 1989 (hereinafter called "Conditional Sale Agreement"), pursuant to which Builder agreed to build, sell and deliver to Company, and the Company agreed to purchase certain railroad equipment (hereinafter called the "Equipment"), consisting of locomotives, all as described therein; and

WHEREAS, the Builder thereafter assigned its rights under the Conditional Sale Agreement and its right, title and interest to the Equipment to the Assignee pursuant to an Agreement and Assignment dated as of April 15, 1989 (hereinafter called "Assignment") between the Builder and the Assignee; and

WHEREAS, the Conditional Sale Agreement and the Assignment were recorded with the Interstate Commerce Commission in accordance with Title 49, United States Code, Section 11303 on May 23, 1989, and assigned Recordation No. 16348; and

WHEREAS, the following locomotives (hereinafter called "Destroyed Equipment") comprising said Equipment have been destroyed:

<u>Number of Units</u>	<u>Description</u>
2	4000 HP B40-8 Road Freight Locomotives; General Electric Company, builder; lettered SSW and numbered 8082 and 8094

WHEREAS, in accordance with the provisions of said Conditional Sale Agreement, the Company has deposited with the Assignee an amount in cash equal to the replacement value of the Destroyed Equipment at the time of its destruction; and

WHEREAS, the Company has assigned and transferred to the Assignee other standard-gauge railroad equipment (hereinafter called the "Replacement Equipment"), hereinafter specifically described, free from all claims, liens, security interests and other encumbrances, at least equal to the replacement value, determined as provided in the Conditional Sale Agreement, of the Destroyed Equipment; and

WHEREAS, the Conditional Sale Agreement provides that upon transfer of title of said Replacement Equipment to Assignee, the same shall immediately become subject to all of the terms and conditions of the Conditional Sale Agreement, as though part of the original Equipment delivered thereunder.

NOW THEREFORE, in consideration of the foregoing and of the mutual promises, covenants and agreements hereinafter set forth, it is agreed by and between the parties hereto that:

1. The Conditional Sale Agreement is hereby amended to include the following described Replacement Equipment:

<u>Number of Units</u>	<u>Description</u>
2	3800 HP GP60 Diesel-Electric Locomotives; General Motors Corporation (Electro-Motive Division), builder; lettered DRGW and numbered 3155 and 3156

The above-described Replacement Equipment is hereby made subject to all of the terms and conditions of the Conditional Sale Agreement, as though part of the original Equipment delivered thereunder.

2. The Assignment is hereby amended to permit the aforesaid amendment to the Conditional Sale Agreement as though originally set forth in the Conditional Sale Agreement.

3. The Company will promptly cause this First Supplemental Agreement to be filed and recorded with the Interstate Commerce Commission in accordance with Section 11303.

4. Except as amended and supplemented hereby, the Conditional Sale Agreement and the Assignment shall remain unaltered and in full force and effect.

5. The First Supplemental Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this First Supplemental Agreement is dated for convenience as of February 15, 1991, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments annexed hereto.

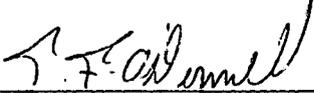
The recitals in this First Supplemental Agreement are made only by Company and are not made by Assignee.

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Agreement to be duly executed as of the date first above written.

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

BY   
Treasurer

Attest:

  
Secretary

THE BANK OF NEW YORK, as Assignee

BY   
ASSISTANT VICE PRESIDENT

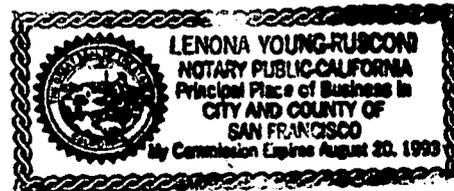
Attest:

  
Assistant Treasurer

STATE OF CALIFORNIA )  
 )  
CITY AND COUNTY OF SAN FRANCISCO )            ss.

On this 7th day of March, 1991, before me personally appeared E. F. GRADY, to me personally known, who being by me duly sworn, says that he is Treasurer of ST. LOUIS SOUTHWESTERN RAILWAY COMPANY; that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Lenona Young-Ruscioni*  
\_\_\_\_\_  
Notary Public



STATE OF NEW YORK )  
 )  
CITY AND COUNTY OF NEW YORK )

ss.

On this 7<sup>th</sup> day of March, 1991, before me personally appeared WALTER N. GITLIN, to me personally known, who, being by me duly sworn, says that he is ASSISTANT VICE PRESIDENT of THE BANK OF NEW YORK; that the seal affixed to the foregoing instrument is the corporate seal of said bank; that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

  
\_\_\_\_\_  
Notary Public

ROBERT SCHNECK  
Notary Public, State of New York  
No. 4746935  
Qualified in Nassau County  
Certificate filed in New York County  
Commission Expires May 31, 1991